

EXHIBIT 23

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7 **UNITED STATES DISTRICT COURT**
8 **WESTERN DISTRICT OF WASHINGTON**
9 **AT SEATTLE**

10 STRIKE 3 HOLDINGS, LLC, a Delaware
11 corporation,

Case No.: 2:17-cv-01731-TSZ

12 Plaintiff,

PLAINTIFF'S INITIAL DISCLOSURES

13 vs.

14 JOHN DOE subscriber assigned IP address
15 73.225.38.130,

16 Defendant.

17 Plaintiff, Strike 3 Holdings, LLC, hereby provides its initial disclosure as required by the
18 Federal Rules of Civil Procedure 26(a).

19 Plaintiff does not waive any protection provided by the attorney work-product doctrine,
20 attorney client privilege, or any other applicable privilege, doctrine or immunity. Plaintiff
21 further reserves its right to supplement or amend initial disclosures as additional discovery,
22 investigation and analysis may warrant.

23 **I. INDIVIDUALS LIKELY TO HAVE DISCOVERABLE INFORMATION**

24 Pursuant to Fed. R Civ. P. 26(a)(i), Plaintiff discloses that the following individuals and
25 entities, if known, likely have discoverable information that Plaintiff may use to support its
26

27
28 **PLAINTIFF'S INITIAL DISCLOSURES**
 (2:17-cv-01731-TSZ)

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1001 Fourth Avenue, Suite 4500
Seattle, WA 98154
(206) 624-3600

1 claims or defenses. Where it is known, the subject areas of which the individual or entity may
2 have knowledge of is indicated.

3
4 1. **Strike 3 Holdings, LLC (“Strike 3”) and its parent company General Media
Systems, LLC (“GMS”).**

5 c/o Fox Rothschild, LLP
6 Constellation Place
7 10250 Constellation Blvd., Suite 900
8 Los Angeles, CA 90067
9 Tel.: (310) 598-4150

10 Possesses information regarding the allegations contained within the Complaint,
11 including, but not limited to, Defendant’s copyright infringement as well as the
12 works-in-suit.

13 2. **Emilie Kennedy – Employee of GMS.**

14 c/o Fox Rothschild, LLP
15 Constellation Place
16 10250 Constellation Blvd., Suite 900
17 Los Angeles, CA 90067
18 Tel.: (310) 598-4150

19 Possesses information relating to the copyright registrations owned by Strike 3
20 and the business and creative operations of the *Blacked*, *Blacked Raw*, *Tushy* and
21 *Vixen* brands. Also possesses information concerning the detrimental impact of
22 online infringement and the impact of anti-piracy efforts.

23 3. **Greg Lansky – Chief Creative Officer.**

24 c/o Fox Rothschild, LLP
25 Constellation Place
26 10250 Constellation Blvd., Suite 900
27 Los Angeles, CA 90067
28 Tel.: (310) 598-4150

29 Possesses information relating to the damaging effects mass infringement of
30 Strike 3’s copyrights has on the company, its ability to compete in the online
31 market, and its ability to finance and maintain its standards of quality. In
32 addition, Mr. Lansky possesses unique insights into GMS’s creative process and
33 the techniques and expenses involved in recording and marketing its high-end
34 productions.

4. **Tobias Fieser** – Forensic investigator.
IPP International U.G.
Daimlerstr. 9
76344 Eggenstein, Germany
Tel: +49 (0) 721-97795-78

Possesses information regarding the technology used to trace the eighty works downloaded by Defendant from June 2017 until December 2017, when Plaintiff filed this current lawsuit. Mr. Fieser's company's software recorded and identified Defendant's IP address distributing Plaintiff's movies several hundred times. In addition, the software recorded and identified Defendant's IP address as distributing a significant amount of other copyrighted works that correlates this particular Defendant to the IP address and hence the infringement.

5. **John S. Pasquale** – Forensic specialist
7 River Systems
P.O. Box 2404
Montgomery Village, MD 20886
Tel: (301) 909-8640

Possesses information about the evidence recorded by IPP showing Defendant's IP address was distributing Plaintiff's work over the BitTorrent network, confirming that the PCAP identified both the IP addresses and hit date contained in Plaintiff's Complaint and subpoena.

6. **Susan B. Stalzer** – Comparer.
c/o Fox Rothschild, LLP
Constellation Place
10250 Constellation Blvd., Suite 900
Los Angeles, CA 90067
Tel.: (310) 598-4150

Possesses information that the motion pictures identified by their cryptographic hash value on the BitTorrent network that Defendant's IP address infringed correspond to motion pictures owned by Strike 3.

7. **Comcast Cable Communications, LLC** – Defendant’s ISP.
650 Centerton Road
Moorestown, NJ 08057
Tel: (886) 947-8572

Possesses information relating to Defendant's IP address including the date and times Defendant was assigned the IP address, DMCA notices received by Defendant notifying Defendant of the infringement taking place through the IP address, the amount of bandwidth Defendant uses, whether Defendant was required to have a password on the Internet account, whether Defendant violated

1 Comcast's Terms of Services by allowing others to use his or her Internet,
2 whether Defendant was assigned any other IP addresses, and whether those IP
3 addresses were also used to infringe a large amount of copyrighted works.

4 8. **Patrick Paige** – Computer forensic investigator.

5 Computer Forensics, LLC
6 1880 North Congress Ave. Suite 333
7 Boynton Beach, Florida 33426
8 Tel: (561) 404-3074

9
10 Mr. Paige is a computer forensics expert that has previously tested IPP's
11 copyright infringement detection system and found that it accurately identifies
12 infringers. Mr. Paige has testified in numerous peer-to-peer file cases and is an
13 expert on the BitTorrent protocol. He is also an expert in detecting infringing
14 activity and spoliation on defendants' hard drives.

15 9. **Jeff Fischbach** – Computer forensic investigator.

16 SecondWave Information Systems
17 9909 Topanga Canyon, Suite 205
18 Chatsworth, CA 91311
19 Tel: (818) 773-0400

20 Mr. Fischbach is a computer forensics expert with more than two decades of
21 experience and specializing in e-discovery. He can testify to how the computer
22 was used and what information has been stored on or subsequently deleted from
23 the hard drive. Mr. Fischbach is also an expert in wireless technology and can
24 testify as to the ability (or more likely lack thereof) of an individual to access
25 Defendant's Internet and use it without authorization.

26 10. **Residents and visitors in and to Defendant's household**

27 *Unknown*

28 Possess information regarding whether he or she was authorized to access
29 Defendant's IP address, used Defendant's IP address, and/or infringed Plaintiff's
30 copyrights using Defendant's IP address.

31 11. **Search engines and other BitTorrent scanning companies**

32 *Unknown, but may include www.google.com, www.bing.com,*
33 *www.duckduckgo.com*

34 Possess information regarding BitTorrent activity among other Internet search-
35 related question that may arise during discovery.

1 12. **Websites, message boards, tubesites, social media networking sites**
2 *Unknown, but may include www.youtube.com, www.reddit.com, the MindGeek
network (www.pornhub.com), www.facebook.com, and www.twitter.com*

3 May possess additional information on Defendant's identity and infringing
4 activities Online as well contain information correlating to evidence by IPP of
5 Defendant's infringing activities, through his or her IP address. Additionally
6 may contain information would demonstrate Defendant's interest in Plaintiff's
7 content as well as other content Plaintiff has recorded Defendant downloading,
8 and that would also show that Defendant used the BitTorrent network to infringe
9 Plaintiff's copyrights.

10 13. **Adobe Systems Incorporated**
11 345 Park Avenue
12 San Jose, CA 95110
13 Tel: (408) 536-6000

14 May possess additional information about Defendant's infringement and notice
15 thereof. Adobe has an anti-piracy practice to curb online infringements of its
16 products. The offending IP address was recorded as downloading several Adobe
17 programs. Adobe sends users warnings if the program they are installing is "not
18 genuine," i.e. an unauthorized copy. Adobe would also possess DMCA notices
19 sent to Defendant or Defendant's ISP alerting the parties of the infringement.

20 14. **Microsoft**
21 One Microsoft Way
22 Redmond, WA 98052
23 Tel: (425) 882-8080

24 May possess additional information about Defendant's infringement and notice
25 thereof. The offending IP address was recorded as downloading several
26 Windows' programs. Microsoft checks activations keys for copies and even has
27 a hotline to report suspected pirated copies. Microsoft would also possess
28 DMCA notices sent to Defendant or Defendant's ISP alerting the parties of the
infringement.

15. **Apple**
16 One Apple Park Way
17 Cupertino, CA 95014
18 Tel: (408) 996-1010

19 **Software Information Industry Association**
20 1090 Vermont Ave. NW Sixth Floor
21 Washington, DC 20005
22 Tel: (202) 289-7442

1 May possess additional information about Defendant's infringement and notice
2 thereof. Apple coordinates with the Software Information Industry Association
3 ("SIIA") to prevent piracy of Apple's programs. The offending IP address was
4 recorded downloading at least one of Apple's program and a training manual.
Either Apple or the SIIA may possess DMCA notices sent to Defendant or
Defendant's ISP alerting the parties of the infringement.

5 **16. The Walt Disney Company Antipiracy Group**

6 500 South Buena Vista Street
Burbank, CA 91521
7 Tel: (818) 560-3300

8 May possess additional information about Defendant's infringement and notice
9 thereof. Defendant's IP address was recorded downloading several Disney and
Disney affiliate motion pictures. Disney may possess DMCA notices sent to
Defendant or Defendant's ISP alerting the parties of the infringement.

10 **17. Alliance for Creativity and Entertainment**

11 *Unknown*
12 Tel: (202) 677-8732

13 May possess additional information about Defendant's infringement and notice
14 thereof. Alliance for Creativity and Entertainment ("ACE") is an antipiracy
15 group with the mission of reducing online piracy. It has many members,
including, but not limited to, Amazon, HBO, Netflix, and many major motion
16 picture studios. ACE may possess information regarding the piracy of its
member's motion pictures.

17 **18. BMG Rights Management GmbH**

18 6100 Wilshire Boulevard, Suite #1600
Los Angeles, CA 90048
19 Tel: (323) 969-0988

20 May possess additional information about Defendant's infringement and notice
21 thereof. Defendant's IP address was recorded downloading several sound
recordings that are owned by BMG Rights Management GmbH. The company
22 may possess information regarding the piracy of its member's motion pictures.

23 **19. Defendant, Subscriber assigned IP address 73.225.38.130**

24 Currently unknown to Plaintiff. Defendant possesses information on whether he,
or someone else using his Internet, used a BitTorrent software program to
infringe Plaintiff's motion pictures.
25

1 **II. DOCUMENTS IN PLAINTIFF'S POSSESSION, CUSTODY, AND CONTROL**
 2 **THAT MAY BE USED TO SUPPORT CLAIMS AND DEFENSES**

3 Pursuant to Fed. R Civ. P. 26(a)(ii), Plaintiff discloses the following documents,
 4 electronically stored information, and tangible things in Plaintiff's possession, custody, or
 5 control that may be used to support its claims or defenses.

6 1. **Copyright registrations or completed copyright applications**

7 Plaintiff will provide either copies of its registration certificates or copies of its
 8 United States Copyright Office applications.

9 2. **ISP documents correlating the Defendant to the offending IP address**

10 In possession of the ISP. The ISP's response to Plaintiff's subpoena is in
 11 possession of the court.

12 3. **Computer data evidencing the TCP/ICP connection and PCAPs**

13 In possession of IPP International U.G. The PCAPs contain evidence of what
 14 information was sent from or to Defendant's IP address from the BitTorrent
 15 network.

16 4. **Additional evidence of infringement**

17 In possession of Plaintiff and IPP International U.G. Additional computer
 18 records that contain evidence of Defendant's infringement, including additional
 19 downloads made by the offending IP address recorded by IPP.

20 5. **Contracts and DMCA notices between the ISP and Defendant**

21 In possession of both the ISP and Defendant.

22 6. **Original copies of the movies and copies as reassembled from the pieces sent**
 23 **by the peer infringers**

24 In possession of Plaintiff and IPP International U.G. Both entities have original
 25 copies of the works-in-suit. The copies of these works reassembled by infringers
 26 may be obtained from Plaintiff through discovery.

27 7. **Affidavits from other defendants that have infringed Plaintiff's Works**

28 In possession of Plaintiff. Affidavits of other defendants admitting to using
 29 BitTorrent to infringe Plaintiff's motion pictures who were correctly identified
 30 by IPP's system.

1 8. **Offers of Judgment and Stipulated Judgments from other defendants that
2 have infringed Plaintiff's Works**

3 In possession of Plaintiff and public records. Judgments where liability has been
4 entered against defendants that have infringed Plaintiff's copyrights, or others'
5 copyrights, and such infringement was correctly detected using IPP's system.

6 **III. COMPUTATION OF DAMAGES**

7 Pursuant to Fed. R Civ. P. 26(a)(iii), Plaintiff avers the following information about its
8 calculation of damages:

- 9 1. Plaintiff seeks statutory damages pursuant to 17 U.S.C. § 504 et seq.
10 2. Plaintiff seeks costs and attorney's fees pursuant to 17 U.S.C. § 505.

11 **IV. APPLICABLE INSURANCE AGREEMENTS**

12 Pursuant to Fed. R. Civ. P. 26(a)(iv), Plaintiff avers the following about any applicable
13 insurance agreements relating to this matter:

- 14 1. There are no claims or counterclaims in this action that are covered by any
15 insurance policy to which Plaintiff is the beneficiary.

16 DATED THIS 20th day of April, 2018.

17 **FOX ROTHSCHILD LLP**

18
19 s/ Bryan J. Case
20 Bryan J. Case, WSBA #41781
21 Lincoln D. Bandlow, Admitted Pro Hac Vice (CSBA
#170449)

22 *Attorneys for Plaintiff*

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CERTIFICATE OF SERVICE

I hereby certify that on April 20, 2018, a true and correct copy of the foregoing document was served via email to the following:

J. Curtis Edmondson, WSBA #43795
399 NE John Olsen Avenue
Hillsboro, Oregon 97124
Telephone: (503) 336-3749
Email: jcedmondson@edmolaw.com

DATED this 20th day of April, 2018.

By: /s/ Bryan J. Case

**PLAINTIFF'S INITIAL DISCLOSURES
(2:17-cv-01731-TSZ)**

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